(1)SBCivil Writ Petition No.5206/1992
(Ashok Kumar Panwar v. Uttari Raj. Sahkari Dugdh Utpadak Sangh Ltd., Bikaner & Anr.)

(2)SBCivil Writ Petition No.4539/1992
(Veer Pal Singh v. Uttari Raj. Sahkari Dugdh Utpadak Sangh Ltd., Bikaner & Anr.)

(3)SBCivil Writ Petition No.4540/1992
(Rohitash Yadav v. Uttari Raj. Sahkari Dugdh Utpadak Sangh Ltd., Bikaner & Anr.)

Date of Order :: 12th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.L.Jain, for the petitioners.
Mr. D.K.Parihar, for the respondents.

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These three petitions for writ being involving common questions of facts and law are heard together and disposed of by this common order.

In brief, facts of the case are that the petitioners were in employment of the respondent Uttari Rajasthan Sahkari Dugdh Utpadak Sangh Ltd., Bikaner and were subjected to disciplinary proceedings. Petitioner Shri Ashok Kumar was subjected to disciplinary proceedings for seven charges of misconduct out of those the allegations No.2 and 3 were partially found proved by the inquiring authority. Petitioner Shri Veerpal Singh was subjected to disciplinary proceedings for four charges of misconduct out of those only the allegation No.2 was

found partially proved by the inquiring authority. Petitioner Shri Rohitash Yadav was subjected to disciplinary proceedings for five charges of misconduct but not a single charge was found proved.

The disciplinary authority in cases of all the three petitioners disagreed with the findings given by the inquiring officer and, therefore, served with a notice to show cause for imposing penalty with a note of disagreement. A detailed reply was given by the petitioners to the note of disagreement and thereafter the establishment committee of the respondent Milk Union by its order dated 20.10.1991 imposed a penalty of stoppage of three annual grade increments with cumulative effects from all the petitioners. It is pertinent to note that the disciplinary proceedings against all the petitioners named above were conducted independently but penalty was imposed upon them by a common order dated 20.10.1991, that reads as under:-

> "संघ की संस्थापन समिति की बैठक दिनांक 27.9.91 के प्रस्ताव संख्या (2)में गमभीरतापूर्वक विचार विमर्श कर लिये गये निर्णय अनुसार निम्नलिखित निलंबित कर्मचारियों के सबंध में मानवीय दृष्टिकोण को मध्येनजर रखते हुए निम्नलिखित दण्ड से दण्डित करते हुए तुरन्त प्रभाव से पूर्व पदों पर सेवा में बहाल किया जाता है:-
> 1.श्री कृपाल सिंह, व० लि०
> 2.श्री वीरपालसिंह,ग्रा0 प्र 0 का0
> 3.श्री बाबूलाल पाड़ान,ग्रा0 प्र 0 का0

4.श्री रोहितावश्व यादव, ग्रा0प्र0का0
5. श्री अशोक कुमार पंवार, ग्रा0प्र0का0

दण्ड:- (1) दण्डस्वरूप तीन वार्षिक वेतन वृद्धियां संचयी प्रभाव से रोकी जाती है।
(2)प्रबन्ध संचालक द्वारा दस्तावेजों के आधार पर निश्चित की गई वसूली की राशि सबंधित कर्मचारियों द्वारा जमा करवाई जावेगी।
(3)भविष्य के लिए चेतावनी दी जाती है कि इसकी पुनरावृति होने पर संघ सेवा से डिस्मिस किया जावेगा।
(4)निलंबन अवधि में पूर्ण वेतन, वार्षिक वेतन वृद्धि, अवकाश एवं अन्य लाभ इत्यादि देय नहीं होगें।"

While giving challenge to the order dated 20.10.1991 it is contended by counsel for the petitioners that the order impugned deserves to be quashed being absolutely non speaking and unreasoned order. It is contended by counsel for the petitioners that the petitioners were not found guilty for most of the charges and thereafter a note of disagreement was given by the disciplinary authority and that too was properly replied by the petitioners but without taking into consideration reply to the note of disagreement the penalty is imposed upon them that is unjust and arbitrary and as such is in violation of Article 14 of the Constitution of India.

A reply to the writ petitions has been filed on behalf of the respondents stating therein that sufficient opportunity was given to the petitioners to defend themselves and a notice to show cause was also

given before imposing penalty with a note of disagreement. The disciplinary authority considered the explanation given by the petitioners thoroughly and found them guilty of misconduct, accordingly they deserve to be penalised, but looking to various circumstances a lenient view was taken by imposing penalty of stoppage of three annual grade increments with cumulative effect. It is also stated by counsel for the respondents that there was no need of giving specific finding to each charge by disciplinary authority as he has just accepted whatever already stated in the notice to show cause while giving a note of disagreement to the petitioners.

Heard counsel for the parties.

The short question involved in these petitions for writ is as to whether the disciplinary authority was required to give a specific finding to each charges and to give a speaking and reasoned order while imposing a penalty upon an employee after considering explanation submitted in pursuant to a note of disagreement with the inquiring officer?

In normal course a speaking and reasoned order is required to be passed by every quasi judicial authority as it being a cardinal principle of rule of law. The disciplinary authority in the instant matter was not in agreement with the findings given by the

inquiring authority, therefore, a note of disagreement was communicated to the petitioners and the petitioners in their turn submitted explanation to it. The inquiry officer was satisfied with the defence made by the petitioners and, therefore, the disciplinary authority while disagreeing with the findings given by the inquiry officer and the explanation submitted by the petitioners is certainly required to give reasons those waived in his mind while holding the petitioners guilty for the misconduct alleged. The note of disagreement in any case cannot be substituted as reasons in the order imposing penalty as that was a tentative decision taken before considering the explanation submitted by the petitioners. The petitioners submitted their explanation and that was required to be taken into consideration by disciplinary authority and also required to be dealt with by taking into consideration the contentions raised by way of submitting explanation. The disciplinary authority, therefore, was certainly under an obligation to give a speaking and reasoned order by giving specific finding while imposing penalty.

In the present case the order impugned on its face appears to be passed in most mechanical manner without taking into consideration the explanation submitted by the delinquent employees. It also not contains reasons to establish guilty of the petitioners. In fact the disciplinary authority by a

common order imposed penalty upon the officers subjected to different disciplinary proceedings.

In view of it these petitions for writ deserves acceptance. Accordingly the order impugned dated 20.10.1991 passed by the Managing Director of the respondent Dairy is quashed and the petitions for writ are allowed. It is open for the disciplinary authority to pass an appropriate order in accordance with law afresh by taking into consideration the explanation submitted by the petitioners.

(GOVIND MATHUR),J.

kkm/ps.